

MINUTES
Montana Fish, Wildlife & Parks Commission Meeting
FWP Headquarters – 1420 East 6th Avenue
Helena, MT

JANUARY 15, 2009

Commission Members Present: Steve Doherty, Chairman; Shane Colton, Vice-Chair (via telephone); Dan Vermillion; Willie Doll.

Fish, Wildlife & Parks Staff Present: Joe Maurier, Acting Director, and FWP Staff.

Guests: See January 15, 2009 Commission file folder for names of who signed in.

A Work Session immediately followed the meeting to discuss the Tongue River Railroad, Elk Brucellosis, and a legislative update.

Topics of Discussion:

- 1. Call to Order - Pledge of Allegiance**
- 2. Approval of Commission Meeting Minutes of December 11, 2008**
- 3. Approval of Commission Conference Call Minutes of December 12, 2008**
- 4. Approval of Commission Expenses through December, 2008**
- 5. Recognition Award to Sue Daly for 30 Years of Service to FWP**
- 6. Lyman Creek Exchange - Final**
- 7. Helena Urban Deer – Final**
- 8. 2009 Peregrine Falcon Take Allocation - Tentative**
- 9. Region 1 Deer Decline Concerns – Seasons and License Numbers**
- 10. Livestock Loss Reduction and Mitigation Board Nominations**
- 11. Montana Department of Transportation Proposed Highway 83 Mitigation near Seeley Lake**
- 12. Wildlife Rehabilitation Center Donation Presentation**
- 13. Open Microphone – Public Opportunity to Address Additional FWP Issues**

1. Opening - Pledge of Allegiance. Chairman Doherty called the meeting to order at 8:30 a.m. and led the Pledge of Allegiance.

2. Approval of December 11, 2008 Commission Meeting Minutes.

3. Approval of Commission Conference Call Minutes of December 12, 2008.

Action: Doll moved and Vermillion seconded the motion to approve the December 11, 2008 minutes and the December 12, 2008 minutes. Motion carried.

4. Approval of the December, 2008 Commission Expense Report.

Action: Doll moved and Vermillion seconded the motion to approve the December expense report as presented. Motion carried.

5. Recognition Award to Sue Daly for 30 Years of Service to FWP. Director Maurier commended Sue Daly for her thirty years of dedicated service to FWP and expressed appreciation for her positive attitude and hard work as she has advanced to her current position as Chief of Finance. She was presented a watch as a token of thanks for her dedication and commitment.

6. Lyman Creek Exchange – Final. Ken McDonald, FWP Wildlife Division Administrator, explained that FWP proposes to exchange a 367-acre parcel of land along Lyman Creek in Ravalli County for two DNRC parcels also in the Bitterroot Valley. The DNRC parcels total 240 acres. One is an 80-acre piece adjoining Three Mile WMA, and the other is 160-acres adjoining Calf Creek WMA.

The DNRC properties appraise at a higher value than the Lyman Creek property because the DNRC properties are more accessible, are situated next to protected open space, and they support significantly more merchantable timber. DNRC will receive \$234,000 in timber rights to make up the difference in value. The Environmental Assessment, released for public comment in 2008, generated no comments in opposition, but received one comment of support by the Ravalli County Fish & Wildlife Association.

Action: Vermillion moved and Doll seconded the motion to approve the Lyman Creek Land Exchange with DNRC as proposed. Motion carried.

Chairman Doherty asked for public comment. There was none.

Action on Motion: Motion carried.

7. Helena Urban Deer – Final. Ken McDonald, FWP Wildlife Division Administrator, explained that the City of Helena wants to kill 150 more deer as a continuation of last fall's pilot project where fifty deer were already killed. They propose to remove 50 deer in each of three locations in the city between January 15 and March 31, 2009. The only cost to FWP is staff time for training city staff, and the use of a FWP pickup truck. Public comment was accepted until January 11. One hundred ninety-five comments were received, with eighty in opposition. The Decision notice has been signed, and the City will prepare an evaluation report for a programmatic EA on implementing the plan. The meat will go to various food shares.

Action: Vermillion moved and Doll seconded the motion to adopt as final this recommendation directing the department to assist the City of Helena with further refinement and implementation of the Helena Deer Management Plan, provided that no department operating funds will be spent beyond those necessary for technical assistance and for response to incidents involving immediate threats to public safety, and providing that the City is authorized to remove up to 50 animals in each of three areas during the winter months to evaluate efficacy of removals in different parts of the City during a different time of year and across all sex and age classes.

Chairman Doherty asked for public comment.

Gretchen Grayum, Helena, stated she had talked to many people, like her, who oppose the deer removal. She questioned the public comment process since she was aware of comments submitted to FWP that offered alternatives to the lethal option, such as erecting deer barriers and education. Nothing else has been considered except the lethal option. She is distressed, sad, and hates that the City just kills the deer. It is opening a Pandora's box of killing – please don't do it.

Alex Dawson, Helena, presented a proposal for relocating the deer, which he was willing to carry out himself. He asked what disease is cited by FWP that prohibits relocating the deer. Dawson said the deer in Helena already wander in and out of the hills, so disease transmission would already be going on if it was indeed present. FWP's responsibility, and the sportsmen's dollars that fund FWP, are to provide for the welfare of the deer and all wildlife, not just to provide hunting opportunities. If money needs to be spent to take care of them, spend it.

McDonald said the main disease of concern is Chronic Wasting Disease. FWP has a statewide policy not to move ungulates, and that policy also applies to the rehabilitation center.

Doll stated that it is the city's responsibility to remove the deer once the Commission approves the proposal. His opinion is that if people are not in favor of this project, they need to go to City Hall and talk to the City Manager rather than to the Commission.

McDonald agreed that after the city's plan is approved by the Commission, it is the city's responsibility to implement it, however the statute covering urban wildlife requires the Commission to approve a municipality's plan. Because there is a take of animals, the Commission has to approve that as well.

Doherty asked if the possibility of disease transmission in the city is higher than in a wild population? Are the deer checked for CWD now? He is not in favor of loaning FWP pickup trucks to the city.

McDonald said there is no CWD in Montana, but surrounding states have experienced occurrences of it.

Doherty said he does not like the idea of trapping deer. He asked what Helena is doing as far as barrier proof fencing, and how much is being done to avoid the lethal alternative. Is the city taking into consideration the effects on habitat when annexing subdivisions into the city? Are comments being accepted when developing subdivisions?

Chris Smith, FWP Deputy Director, noted that FWP staff met with City Manager Burton and lobbyists to discuss seeking additional funding through the legislative session to create a wildlife biologist position at FWP that will be responsible, in part, for addressing the issues just raised.

Action on Motion: Motion carried.

8. 2009 Peregrine Falcon Take Allocation – Tentative. Jeff Herbert, FWP Wildlife Division Assistant Administrator, explained that Peregrine Falcons were delisted by the USFWS in 1999 and by Montana in 2005. Monitoring shows continued increases in the number of nesting pairs, primarily in western Montana. In 2007, the USFWS updated rules for a limited take of nestling peregrines in the western United States for falconry purposes. Six states opted to take advantage of the opportunity and have put regulations in place.

In March, 2008, the Commission approved the allocation of three permits with additional restrictions attached to the federal restrictions. Those birds are doing well and are still in training. It was a large enough clutch that they all might not have survived, so the capture probably helped them to survive. A survey of nesting birds is conducted every three years.

The Montana Peregrine Falcon Working Group met in November of 2008 to discuss plans for the 2009 statewide survey. The majority of working group members approved the take of five nestling peregrines for falconry purposes with additional restrictions attached to the federal guidelines. Those restrictions are to:

- *Restrict take to the June 1 to July 15 time period.
- *Limit take to one peregrine for each successful applicant.
- *Prohibit take from eastern Montana so as to encourage expansion of the breeding population.
- *Prohibit take from certain nests of high value wildlife viewing opportunities and/or part of on-going agency approved research efforts.
- *Prohibit the sale, barter or exchange of birds from the wild.
- *Update Montana falconry ARM rules to reflect the final USFWS rule governing falconry in 2009.

Action: Doll moved and Vermillion seconded the motion to authorize the take of up to five peregrine falcon nestlings for falconry purposes in 2009 with the inclusion of additional recommended restrictions. Motion carried.

Chairman Doherty asked for public comment.

Blair Anderson, falconer, said the capture worked well last year. He has watched those birds in the air. He is in favor of a quota of five this year.

9. Region 1 Deer Decline Concerns – Seasons and License Numbers - Tentative. Quentin Kujala, FWP Wildlife Management Bureau Chief, explained that there has been a serious decline in recruitment in Region 1, predominantly due to last year's harsh winter. Wolf and mountain lion predation present additional concerns, therefore, FWP recommends a reduction in the number of licenses issued as well as season restrictions outside the biennial season setting process. Recommendations are to:

- Drop the last four days of general license either-sex white-tailed deer hunting throughout most of Region 1 (replace with antlered buck). HDs 150, 151 and 170 would remain five weeks general license either-sex white-tailed deer hunting.
- Reduce antlerless white-tailed deer B licenses:

| | |
|--------|-----------------|
| 100-00 | From 600 to 25 |
| 101-00 | From 750 to 25 |
| 102-00 | From 500 to 25 |
| 103-00 | From 500 to 25 |
| 104-00 | From 500 to 25 |
| 109-00 | From 400 to 25 |
| 110-00 | From 50 to 25 |
| 120-00 | From 300 to 25 |
| 121-00 | From 800 to 100 |
| 122-00 | From 50 to 25 |
| 123-00 | From 100 to 25 |
| 124-00 | From 200 to 100 |
| 130-00 | From 650 to 25 |
- Reduce antlerless mule deer B licenses:

| | |
|--------|---------------|
| 100-01 | From 50 to 25 |
| 103-01 | From 50 to 25 |
| 104-01 | From 50 to 25 |

Action: Vermillion moved and Doll seconded the motion to adopt the tentative 2009 Region 1 white-tailed deer season and license number recommendations as proposed by the Department.

Vermillion noted that Commission Workman has expressed support for this proposal in absentia. Vermillion asked how the elk are doing in Region 1.

Jim Williams, Region 1 Wildlife Manager, said there is a fairly good ratio. Declines began a year ago. Wolves, mountain lions, hunting, and winter severity have affected them, therefore action must be taken now.

Action on Motion: Motion carried.

10. Livestock Loss Reduction and Mitigation Board Nominations. The Montana Gray Wolf Conservation and Management Plan included a provision for the creation of a reimbursement program for wolf-related economic damage to livestock. Ken McDonald, FWP Wildlife Division Administrator, explained that HB364, passed during the 2007 Montana Legislature, directed that a 7-member Montana Livestock Loss Reduction and

Mitigation Board, appointed by the Governor, be established to oversee a program that would provide cost-share grants to livestock producers for the purpose of reducing the risk of losses of livestock to wolf predation, and to reimburse producers at fair-market value for livestock lost to wolves. The Governor selects three names from those recommended by the FWP Commission, three from those recommended by the Montana Board of Livestock, and one member at-large.

It is once again time to solicit names for persons interested in serving on the Board. Terms expire for three of the present members, however they can reapply if they wish. FWP is asking for Commission approval to proceed with solicitation of names of interested candidates to nominate to the Board for submittal to the Governor for his appointment to the Board.

Motion: Doll moved and Vermillion seconded the motion to direct FWP to solicit names of individuals interested in filling the three wildlife interest positions on the Montana Livestock Loss Reduction and Mitigation Board to submit to the Governor. Motion carried.

11. Montana Department of Transportation Proposed Highway 83 Mitigation near Seeley Lake. Ken McDonald, FWP Wildlife Division Administrator, stated that the Montana Department of Transportation proposes to realign a stretch of Highway 83 from its Highway 200 junction to Seeley Lake in order to straighten out a dangerous curve. This action would impact about eight acres of FWP white-tailed deer and elk winter range within the Blackfoot Clearwater WMA. A 52-acre tract of private land directly adjacent to the proposed realignment is currently for sale. This parcel is high-quality native rough-fescue winter range, includes 1,800 feet of Clearwater River frontage on the most permeable reach of the river between Salmon Lake and Clearwater Junction, and is within a critical corridor between the BCWMA and ungulate summer ranges in Blanchard and Belmont creeks. The Department of Transportation proposes to purchase this property and then transfer it fee-title to FWP as mitigation for the eight-acre parcel. Acquisition of the 52-acre parcel would ensure the protection of critical wildlife habitat and corridors. The BCWMA Citizen's Advisory Council supports the proposed acquisition of the 52-acre parcel as a high priority. In 2002, FWP and MDT attempted to negotiate the construction of an overpass as mitigation for the highway realignment, but public reaction to the proposal was mixed. Since then, construction costs have increased four-fold to make the overpass proposal cost prohibitive.

Action: Doll moved and Vermillion seconded the motion to endorse FWP's proposal to pursue MDT's purchase and transfer of a 52-acre parcel adjacent to the Blackfoot Clearwater Wildlife Management Area to FWP as mitigation of the proposed realignment of Montana Highway 83 between mile-markers 4.1 and 4.5.

Doherty recommended that since high fences and wildlife underpasses work, Department of Transportation might want to consider spending their money on those items.

Mike Thompson, FWP Region 2 Wildlife Manager, said there has been a great deal of discussion surrounding two underpass sites as underpasses do work successfully. Negotiations will continue.

Action on motion: Motion carried.

12. Wildlife Rehabilitation Center Donation Presentation. In 1972, the Mikel Kellner Foundation For Animals was instrumental in the renovation of the FWP Rehabilitation Center, and has continued to support FWP over the years since then, contributing over 1 million dollars. Today, Kelley Kuntz and Cindy Utterback from the Foundation for Animals attended the meeting to present FWP with a check for \$34,000 for continued efforts. They also showed a very impressive video movie.

Kelley Kuntz said the Foundation took the lead in finding a new home for the Wildlife Rehabilitation Center. Since then the Foundation for Animals and FWP have collaborated on renovation of the Foundry Building for utilization as an interpretive center when it became obvious that the Custer Avenue site was just not conducive to the message FWP wanted to send. The Foundation believes in this partnership – they are not going away. The rehabilitation facility is only one component. They can do many innovative things that a governmental entity cannot do.

Cindy Utterback explained that the name of the Foundation was changed three years ago from the Mikel Kellner Foundation for Animals to the Foundation for Animals at the request of Mikel Kellner, who wanted the emphasis to be directed toward animals. The foundation has the unique mission of addressing the critical needs of domestic and wild animals.

The FWP staff and Commission thanked Kelley Kuntz, Cindy Utterback, and the Foundation for the very generous donation.

13. Open Microphone – Public Opportunity to Address Additional FWP Issues. There was none.

Director Maurier thanked the FWP staff for all their hard work during this busy time. He thanked Bob Lane for the phenomenal job he did on stream access legislation.

Director Maurier also expressed appreciation to Chris Smith for his quick response in assisting Representative Jonathon Windy Boy's wife when she fell down several stairs and hurt her head and broke her leg.

Director Maurier stated that the USFWS is going to delist wolves once again but leave Wyoming out since they don't have a plan in place yet.

Action: Vermillion moved and Doll seconded the motion to adjourn the meeting. Motion carried.

Meeting adjourned at 10:15 a.m.